

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

TROLLERS T. FLEMING,

Petitioner,

v.

PAT GLEBE,

Respondent.

Case No. C09-5678RBL

ORDER ON PENDING MOTIONS, FOR  
SERVICE OF THE AMENDED  
PETITION AND DIRECTING  
RESPONDENT TO FILE AN ANSWER  
TO THE AMENDED PETITION

The underlying matter has been referred to United States Magistrate Judge J. Richard Creatura pursuant to 28 U.S.C. § 636(b)(1)(A) and 636 (b)(1)(B), and Local Magistrate Judge's Rule MJR3 and MJR4. Petitioner is petitioning the court for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254. Two motions are pending in this matter. Having reviewed the motions and the balance of the record, the court finds and orders as follows:

(1). Petitioner's motion for an extension of time to file an amended petition (Doc. 11) is **DENIED** as being moot. An Amended Petitioner has been submitted. *See* discussion below.

(2). Petitioner's motion for leave to file an over length petition (Doc. 12) is **GRANTED**. Along with the motion for leave, petitioner has submitted his Amended Petition. The Clerk is directed to docket this Amended Petition.

ORDER - 1

1 (3). The clerk shall also arrange for service by certified mail upon the Attorney  
2 General for the State of Washington, copies of the Amended Petition, all documents in support  
3 thereof. All costs of service shall be advanced by the United States. The Clerk shall assemble  
4 the necessary documents to effect service. In addition, the Clerk shall send petitioner a copy of  
5 this Order, along with a copy of the Court's General Order regarding pro se litigation.

6 (4) Within forty-five (45) days after such service, respondent(s) shall file and serve  
7 an answer in accordance with Rule 5 of the Rules Governing § 2254 Cases in United States  
8 District Courts. As part of such answer, respondent(s) should state whether petitioner has  
9 exhausted available state remedies, whether an evidentiary hearing is necessary, and whether  
10 there is any issue of abuse or delay under Rule 9. Respondent shall not file a dispositive motion  
11 in place of an answer without first showing cause as to why an answer is inadequate.

12 Respondent(s) shall file the answer with the Clerk of the Court and serve a copy of the answer  
13 upon petitioner.

14 (5) The answer will be treated in accordance with Local Rule CR 7. Accordingly,  
15 upon receipt of the answer the Clerk will note the matter for consideration on the fourth Friday  
16 after the answer is filed, petitioner may file and serve a response not later than on the Monday  
17 immediately preceding the Friday appointed for consideration of the matter, and respondent may  
18 file and serve a reply brief not later than on the Thursday immediately preceding the Friday  
19 designated for consideration of the matter.

20 DATED this 22<sup>nd</sup> day of April, 2010.

21  
22  
23  
24 

25 J. Richard Creatura  
26 United States Magistrate Judge